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13 HEALTH CARE SERVICE CORP.

14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 SERENA SOFTWARE, INC.,

Case No. C 08-05472 RS

19 Plaintiff and
20 Counter-Defendant,

STIPULATION AND [PROPOSED]
ORDER TO STAY HEARING DATE AND
BRIEFING SCHEDULE ON MOTION TO
DISMISS/MOTION FOR JUDGMENT ON
THE PLEADINGS

21 vs.

22 HEALTH CARE SERVICE CORP.,

23 Defendant and
Counter-Claimant.

1 Plaintiff and Counter-Defendant Serena Software, Inc. ("Serena") and Defendant and
2 Counter-Claimant Health Care Service Corp. ("HCSC") hereby stipulate and agree, by and
3 through their undersigned counsel of record, as follows:

4 WHEREAS, HCSC filed its Motion to Dismiss/Motion for Judgment on the Pleadings on
5 March 19, 2009 before Judge Jeffrey S. White;

6 WHEREAS, this case was transferred to Magistrate Judge Richard Seeborg on March 31,
7 2009 and the briefing schedule and hearing date were vacated;

8 WHEREAS, counsel for Serena and counsel for HCSC met and conferred regarding a
9 mutually agreeable briefing schedule for HCSC's Motion to Dismiss/Motion for Judgment on the
10 Pleadings;

11 WHEREAS, the parties have agreed to participate in a mediation to take place in June,
12 2009;

13 THEREFORE, the parties, by and through their counsel of record, hereby stipulate, and
14 jointly move the Court to continue the briefing and hearing on Defendant's Motion to
15 Dismiss/Motion for Judgment on the Pleadings pending the parties agreement on a mediation
16 date. Within 5 business days of reaching an agreement on a mediation date, the parties shall
17 stipulate to a reasonable briefing schedule and hearing date that complies with the relevant local
18 rules and the Court's standing orders.

19
20 Dated: April 22, 2009

MORGAN, LEWIS & BOCKIUS LLP

21 By _____ /s/
22 Melinda S. Riechert

23 Attorneys for Plaintiff
24 SERENA SOFTWARE, INC.

1 Dated: April 22, 2009

McDERMOTT WILL & EMERY LLP

2 By _____/s/
3 Philip C. Ducker

4 Attorneys for Defendant
5 HEALTH CARE SERVICE CORP.

7 **ORDER**

8 Pursuant to the Stipulation between the parties, it is hereby ORDERED that the hearing on
9 Defendant's Motion to Dismiss/Motion for Judgment on the Pleadings is continued.

10 Further pursuant to the Stipulation, it is hereby ORDERED that the parties shall notify the
11 Court of a reasonable briefing schedule and hearing date within 5 business days of reaching an
12 agreement on a mediation date.

13 **IT IS SO ORDERED.**

14 Dated: _____ 4/23/09



The Hon. Richard Seeborg
United States Magistrate Judge